

REMARKS

Claims 1-18 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, independent claims 1 and 8 have been rejected because, according to the Office, it is unclear what is meant by "substantially amorphous".

The terminology "substantially amorphous" is not indefinite if a person of ordinary skill in the art, from a reading of the specification disclosure, would understand what is being claimed. The terminology is defined in the specification on page 5, lines 2-7. Therefore, the scope of the claims, when read in light of the specification, is clear. However, to expedite an allowance of the claims of the application, claims 1 and 8 have been amended to define the terminology "substantially amorphous" according to the definition on page 5, lines 2-7.

Removal of the 35 U.S.C. § 112, second paragraph, rejection is believed to be in order.

Claims 1-2, 4, 6, 8-10, 12, 15 and 17-18 have been rejected under 35 U.S.C. §102(b) as being anticipated by Nishimura et al. (JP 2001-006682, translation) ("Nishimura"). The position of the Office is believed to be that the "substantially amorphous" active

material alloy of the present invention does not distinguish over the "amorphous" silicon disclosed in paragraph [0013] of Nishimura. Nishimura teaches in paragraph [0013] that the silicon used therein is a crystalline substance and amorphous.

Nishimura does not support the anticipation rejection because the active material alloy of the present invention is substantially amorphous after the sintering process. Nishimura discloses only that silicon is amorphous prior to sintering. Notwithstanding this distinction, the rejection has been overcome by the above amendments to claims 1 and 8 to include the limitations of claims 3 and 13, respectively. Claims 2, 3, 12 and 13 have been cancelled.

Removal of the 35 U.S.C. § 102 rejection is also believed to be in order.

The foregoing is believed to be a complete and proper response to the Office Action dated October 16, 2003, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

PATENT APPLN. NO. 10/046,697
RESPONSE UNDER 37 C.F.R. §1.111

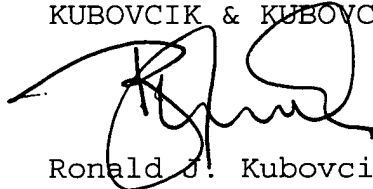
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NON-FINAL**

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

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A handwritten signature in black ink, appearing to be 'Ronald J. Kubovcik', written over a circular stamp or mark.

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